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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,326	11/07/2001	Wolfgang Butz	H 4763 US	3382

423 7590 08/25/2003

HENKEL CORPORATION
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EXAMINER

WALCZAK, DAVID J

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 08/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/008,326

Applicant(s)

BUTZ ET AL.

Examiner

David J. Walczak

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

up Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 11/7/01. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

Information Disclosure Statement

✓ The I.D.S. filed 11/7/01 is acknowledged. Reference 21 39 123 has been considered. Reference 70 11 620 has not been considered as no explanation of this non-English reference is present in the specification. Further, reference 21 39 023 has not been considered since the specification indicates that this reference discloses a glue stick having a piston with a threaded bore which is driven by a screw spindle, however, submitted reference 21 39 023 does not appear to show such a structure (it appears to show some sort of roller arrangement which guides a series of webs). It seems as though the wrong reference has been submitted. Clarification is needed.

Specification

✓ The disclosure is objected to because of the following informalities: On page 8, line 18, "base 6" should be --base 4--, on page 9, line 19, "base 6" should be --base-- 4 and on page 9, line 20, "opening 7" should be --opening 5--. Appropriate correction is required.

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The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The limitations: the vent opening communicating the underside of the piston with the interior of the receiving element (claim 3) and ventilating groove (claim 4) do not have antecedent basis in the specification (it is further noted that no such groove appears to be shown in the figure).

Claim Rejections - 35 USC § 112

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claim 1, it is unclear as to whether or not the material is intended to be part of the claimed combination (lines 1-2 imply the material is part of the claimed combination while lines 6-7 imply that the material is not part of the claimed combination). Should the Applicant intend to claim the material, an antecedent basis for the material should be defined. Should the Applicant not intend to claim the material, --adapted to be-- language should be used when referring thereto, i.e., --adapted to carry the coatable material on a side facing...--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Lang et al. (hereinafter Lang). In regard to claim 1, Lang discloses a device for receiving and dispensing a coatable material comprised of sleeve shaped receiving element 20, a piston shaped element having an internal thread (not numbered, see Figure 3) and a rotary grip having a screw spindle for displacing the piston wherein a region of the rotary grip extends through a passage opening in the bottom of the receiving element and is formed complementary to the underside of the piston. In regard to claim 2, viewing Figure 3, it can be seen that the piston includes an cylindrical outer wall and a conical inner wall which is complementary to the region of the grip which extends through the passage.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang in view of Rosenwinkel. Although the Lang device does not include a ventilation bore in the piston, attention is directed to the Rosenwinkel reference, which discloses another dispenser for a solid material wherein the piston includes ventilation bores 293

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therein in order to enable the piston to be effectively vented when being filled.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such bores into the Lang piston in order to enable the device to be effectively filled.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Lang, Yorks, Idec and Tomburo et al. references are cited for disclosing other dispensers wherein the piston is shaped complementary to the rotary grip.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 703-308-0608. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.


David J. Walczak
Primary Examiner
Art Unit 3751

DJW